UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
GREGG, MARY M

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-20 have been examined

Oath/Declaration

2.   S-signature is a signature inserted between forward slash marks, but not handwritten as

defined by 37 CFR 1.4 (d) (1). Applicant's EFS signature is not in compliance with EFS

signature submission rules (See MPEP 609.07 and 37 CFR 1.4 (d)(3) and (4)).

Declaration 37 CFR 1.63 does not possess the signature of the inventor. (MPEP   602).

Appropriate correction is required.

Specification

3.   The disclosure is objected to because, the use of the trademark SUPER DOT, (para

0013, 0014, 0015, 0016), COMPUSERVE, PRODIGY, AMERICAN ONLINE, VERIZON (para

0062), MIROCSOFT'S INTERNET EXPLORER, NETSCAPE NAVIGATOR, LYNX

MOSAIC, WINDOWS 95, LINUX (para 0063), NETSCAPE COMMUNICATION CORP.,

INETERNET EXPLORER, MICROSOFT (para 0064), WINDOWS. TM (para 0066, 0067) has

been noted in this application. A trademark should be capitalized wherever it appears and be

accompanied by the generic terminology. Although the use of trademarks is permissible in patent

applications, the proprietary nature of the marks should be respected and every effort made to

prevent their use in any manner, which might adversely affect their validity as trademarks.

Capitalize each letter of the word in the bracket or include a proper trademark symbol, such as ™

or © following the word. (See MPEP 608.01(v) [R-2]).

The disclosure is additionally objected to because it contains an embedded hyperlink

and/or other form of browser-executable code in paragraphs 0037, 0052 and 0046. Applicant is

required to delete the embedded hyperlink and/or other form of browser-executable code. (See

MPEP § 608.01).

Appropriate correction is required.

Claim Objections

4.   Claims 1, 9 and 13 are objected to because of the following informalities:

In reference to Claims 1 and 9:

The claims state: "a market system that the rights holders directly exchange the securities

being traded" has issues of proper idiomatic English.

This claim needs to follow English grammar structure so as to clarify claim.

In reference to Claim 13:

It has been noted that Claim 13 numbering has been duplicated. For compliance

requirements by rule 1.126 the examiner has corrected the duplicate numbering of claim 13 and

has corrected the numbering of the claims that followed. The numbering of claims is not in

accordance with 37 CFR 1.126 which requires the original numbering of the claims to be

preserved throughout the prosecution. When claims are canceled, the remaining claims must not

be renumbered. When new claims are presented, they must be numbered consecutively

beginning with the number next following the highest numbered claims previously presented

(whether entered or not).

Misnumbered claims 13-20 have been renumbered as claims 14-21.

Claim Rejections-35 USC § 112

5.   The following is a quotation of first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making
and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it

pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode
contemplated by the inventor of carrying out his invention.

Additionally, Claim 9 is rejected under 35 U.S.C. 112, 1st paragraph, as the applicant

fails to teach how to use the invention due to the lack of specific and substantial utility. (See

MPEP 2107 (II)).

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

<u>In reference to Claim 1:</u>

Claim 1 recites the limitation " the rights holder" and " the securities being traded" in

lines 2 and 3. There is insufficient antecedent basis for this limitation in the claim.

<u>In reference to Claim 9:</u>

Claim 9 recites the limitation " the rights holder" in line 2. There is insufficient

antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

7.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

8.   Claims 2 and 9 rejected under 35 U.S.C. 101 because the claimed invention is not

supported by either a specific and substantial asserted utility or a well established utility.

<u>In reference to Claim 2:</u>

The subject matter of a properly construed claim is defined by the terms that limit its

scope. Language that suggests or makes option but does not limit a claim to a particular

structure does not limit the scope of a claim or claim limitation. Claim 2's use of the language

"can" is non-limiting in scope and therefore non-statutory. See MPEP § 2111.04.

In reference to Claim 9:

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention does not have any

stated useful process. The applicant has failed to identify any specific and substantial utility for

the invention. (See MPEP § 2107.01). Claiming "having a market system" as a method does not

specify a useful process.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> The invention was patented or described in a printed publication in this or a foreign country or in public use or on
> sale in this country, more than one year prior to the date of the application for patent in the United States.

10.   Claims 1-11 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent No.: 6014643 by Minton (Minton).

In reference to Claim 1:

A securities system comprising: a market system that the rights holders directly (Col 1

lines 10-13, Col 2 lines 47-49) exchange the securities being traded (Col 2 lines 62-65).

In reference to Claim 2:

A system according to claim 1 (see rejection of claim 1 above) in which a broker can act

as an agent for a rights holder (FIG. 1 and 3, Col 2 lines 46-49, 62-65, Col 4, lines 44-49, 62-67).

In reference to Claim 3:

A system according to claim 1 (see rejection of claim 1 above) in which said system is a

data processing system (abstract, Col 2 lines 44-49, Col 2 lines 62-64).

In reference to Claim 4:

A system, as claimed in claim 1 (see rejection of claim 1 above) further

Comprising means for pooling securities for the short selling of securities (Col 4, lines 3-10, Col

10 lines 3-4, 62-63)

Note: The applicant has invoked the means for function, which was defined in paragraphs 0028,

0061 and 0087 of the written description. The claim has been rejected as the prior art contains

all the structural limitations of the claim as defined in the written description for intended use.

In reference to Claim 5:

A system according to claim 3 (see rejection of claim 5 above) in which said system is

processed in a client server system (abstract, Col 3 lines 4-6, Col 4, lines 12-20).

In reference to Claim 6

A system according to claim 3 (see rejection of claim 3 above) in which said system is

connected to through the Internet (FIG. 3, Col 6 lines 35-40, Col 7 lines 57-60).

In reference to Claim 7:

A system according to claim 3 (see rejection of claim 3 above), further comprising: (a) computer processor means for processing data (FIG. 2, Col 3 lines 65-57, Col 4, lines 62-67); (b) storage means for storing said data on a storage medium (FIG. 2, Col 5, lines 11-15, Col 7 lines 48-53); (c) communication means for transmitting data in a secure environment to and from various remote locations (FIG. 2, Col 7 lines 9-15, Col 8 lines 52-54); and (d) computer software means for creating and displaying trade data (Col 4, lines 40-44, Col 6 lines 41, 65-67, Col 7 lines 1-3, Col 15, lines 27-31) concerning a particular trade in the form of a trade record (FIG. 4-12).

In reference to Claim 8:

A system, as claimed in claim 7 (see rejection of claim 7 above) wherein said computer software means further comprises" means for inputting and storing system information on said storage means (FIG. 1, FIG. 4, Col 4 lines 13-25, Col 5 lines 12-20).

In reference to Claim 9:

A securities reporting method comprising: having a market system that the rights holders directly (Col 1 lines 10-13, Col 2 lines 46-49) exchange the securities being traded (Col 2 lines 62-65).

In reference to Claim 10:

A method according to claim 9 (see rejection of claim 9 above) which includes having a broker act as an agent for a rights holder (Col 2 lines 62-65, Col 7 lines 32-35, 40-46, Col 8 lines 16-22).

In reference to Claim 11:

A method according to claim 10 (see rejection of claim 11 above) which includes having said system being a data processing system (abstract, Col 2 lines 46-49, Col 3, lines 3-6).

In reference to Claim 18 :

A securities exchange system comprising: pooling means for pooling securities for the short selling of securities (Col 10 lines 62-65, Col 11, lines 15-18, Col 12 lines 11-16).

Note: The applicant has invoked the means for function, which was defined in paragraphs 0028, 0061 and 0087 of the written description. The claim has been rejected as the prior art contains all the structural limitations of the claim as defined in the written description for intended use.

In reference to Claim 19

A system according to claim 18 (see rejection of claim 18 above) in which said system is a data processing system (abstract, Col 2 lines 46-50, Col 4, lines 3-10).

In reference to Claim 20

A system according to claim 18, further comprising: (a) having a computer processor means for processing data (Col 4 lines 3-7); (b) having a storage means for storing said data on a storage medium (Col 5 lines 14-21); (c) having a communication means for transmitting data in a secure environment to and from various remote locations ((Minton) Col 4 lines 5-8, FIG. 3, Col 7, lines 10-15); and (d) having a computer software means((Minton) Col 3 lines 65-68) for creating and displaying trade data (FIG. 4-12, FIG 1, component 26 and 30) concerning a particular trade in the form of a trade record (FIG. 4-7).

In reference to Claim 21

A system, as claimed in claim 18 wherein said computer software means further

comprises: means for inputting and storing system information on said storage means (Col 4

lines 13-20).

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

12.   Claims 12 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent

6014643 by Minton (Minton) in view of US Patent. No. 6601044 B1, by Wallman (Wallman).

In reference to Claim 12:

Minton teaches:

A method according to claim 10 (see rejection of claim 10 above)… for the short selling

of securities ((Minton) Col 10 lines 62-67, Col 12 lines 11-16).

Minton does not teach:

which includes having a pooling means for pooling securities

Wallman teaches:

means for pooling securities (Col 15, lines 32-34, 45-50, 58-63, Col 16, lines 2-

14, 49-55)

Both Minton and Wallman are directed toward creating securities portfolios for small and individual investors that optimize gain and minimize risk, that allow more personal control with minimum broker usage ((Minton) Col 2, lines 45-57, (Wallman) Col 5, lines 15-16, Col 11, lines 25-34, 47-49). Wallman teaches several motivations for small or individual investor to deviate from purchasing traditional pooled securities and the using traditional brokerage services ((Wallman) Col 1, lines 63-66, Col 3, lines 61, Col 4, line 47, Col 5, lines 17-18, 43-45,). Wallman provides a method and system for grouping financial instruments to create groups or pools of securities ((Wallman) Col 15, lines 32-34, 45-50, 58-63, Col 16 lines 2-10, 48-55).

It was well known in the art at the time of invention that pooled funds are funds from many individual investors that are aggregated for the purposes of investment, as in the case of a mutual or pension fund. Investors in pooled fund investments benefit from economies of scale, which allow for lower trading costs per dollar of investment, diversification and professional money management. Both references of prior art teach the importance of minimizing cost of trading. Therefore, from the teaching of Wallman who states explicitly of pooling securities and individual control of security purchases with minimal cost of using brokers as well, it would have been obvious to one of ordinary skill in the art at the time of the invention for Minton to include in the options portion ((Minton), FIG. 6) of Minton's invention to provide a viewing of and the options of purchasing pooled securities and/or to include a method for the pooling of securities for creating a diversified fund portfolio profile as taught by Wallman ((Wallman) Col 15, lines 32-34, 45-50, 58-63, Col 16,lines 3-10, 48-55), (Minton) Col 8 lines 40-48).

In reference to Claim 13

A method according to claim 12 (see rejection of claim 12 above) in which includes

having said system being processed in a client server system ((Minton) Col 4 lines 1-13).

In reference to Claim 14:

A method according to claim 12 (see rejection of claim 12 above)

in which includes having said system being connected to through the Internet ((Minton) Col 6,

lines 34-40, Col 7, lines 55-60).

In reference to Claim 15:

A method according to claim 12 (see rejection of claim 12 above), further comprising: (a)

having a computer processor means for processing data ((Minton) Col 3 lines 65-57); (b) having

a storage means for storing said data on a storage medium ((Minton) Col 5 lines 14-19); (c)

having a communication means for transmitting data in a secure environment to and from

various remote locations ((Minton) Col 4 lines 5-8, FIG. 3, Col 7, lines 10-15); and (d) having a

computer software means for creating and displaying trade data ((Minton) Col 3 lines 65-68)

concerning a particular trade in the form of a trade record ((Minton) FIG. 4-12).

In reference to Claim 16:

A method, as claimed in claim 15 (see rejection of claim 15 above) which includes

having means for inputting and storing system information on said storage means ((Minton) FIG.

1, FIG. 4, Col 3 lines 65-67, Col 4, lines 12-20).

In reference to Claim 17

A method, as claimed in claim 15 (see rejection of claim 14 above) further comprising:

having means for monitoring the modification of trade data in respective trade records(FIG. 3,

Col 7, lines 57-60, Col 8, lines 44-47, 50-59) which are created by said computer software means ((Minton) Col 5 lines 14-16, Col 14 lines 65-67).

Conclusion

13.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pub No 20040199448 A1 by Chalermkraivuth et al. (Chal) is cited as a relevant reference for teaching a system and method for determining the allocation of securities in a portfolio for individuals and/or portfolio managers. Additionally, Chal teaches explicitly of different methods for pooling securities. The applicant is put on notice that the prior art teaches the disclosed and claimed features of the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary M. Gregg whose telephone number is (571) 270-5050. The examiner can normally be reached on Monday thru Friday-8:30am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ken Bomberg can be reached on (571) 272-4922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MMG

/Thor S. Campbell/

Primary Examiner, Art Unit 3742